

EMINENT DOMAIN MODIFICATIONS

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Craig A. Frank

Senate Sponsor: _____

LONG TITLE

General Description:

This bill provides that litigation expenses shall be awarded in condemnation actions where the final award exceeds the written offer by 5%.

Highlighted Provisions:

This bill:

- ▶ defines "litigation expenses";
- ▶ provides that litigation expenses shall be awarded to the property owner if the final award amount exceeds the written offer by 5%; and
- ▶ specifies who determines the amount of litigation expenses.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

78B-6-523, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **78B-6-523** is enacted to read:

78B-6-523. Costs and fees.



28 (1) As used in this section, "litigation expenses" means the sum of the costs,
29 disbursements, and expenses, including reasonable attorney, appraisal, and engineering fees
30 necessary to prepare for or participate in actual or anticipated condemnation proceedings or
31 dispute resolution.

32 (2) The property owner shall be awarded reasonable litigation expenses if the
33 compensation determined by the court or through dispute resolution exceeds by 5% or more the
34 final written offer tendered by the condemnor before the complaint is filed or dispute resolution
35 commenced.

36 (3) Reasonable litigation expenses shall be determined by:

37 (a) the arbitrator, if the amount of compensation was determined through arbitration; or

38 (b) the court, if the amount of compensation was determined by:

39 (i) litigation; or

40 (ii) mediation, and the parties cannot agree on an amount.

Legislative Review Note
as of 11-20-09 6:21 AM

Office of Legislative Research and General Counsel